Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Challenges to Broadband Deployment Financing - NBP Public Notice #28	)	GN Docket No. 09-47
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act	)	GN Docket No. 09-137

COMMENTS OF SPRINT NEXTEL CORPORATION
NBP PUBLIC NOTICE # 28

Sprint Nextel Corporation ("Sprint"), pursuant to the Public Notice ("PN") released on December 18, 2009 (DA 09-2610), hereby respectfully submits its comments in the above-captioned proceedings on challenges to broadband deployment financing. In this phase of the National Broadband Plan proceeding, the Commission has asked "how government policies and programs [can] create more effective incentives for private financing of deployment of broadband infrastructure in the country's underserved and unserved areas" (PN, p. 2).

As the Commission has correctly noted (PN, p. 1), "the business case for potential [broadband] deployment projects in many rural areas may be inadequate to merit sufficient private sector support." Many rural areas remain unserved or underserved because private sector broadband deployment projects cannot be financially justified - either potential revenue streams are inadequate (*e.g.*, because of low population density) and/or the projected capital and operating expenses are very high (*e.g.*, because of difficult terrain, high backhaul costs, etc.). While government subsidies (grants, loan guarantees, universal service support) can be a significant factor in encouraging private investment, perhaps the most rational and effective (in the long term) approach the Commission can take to stimulate private financing of broadband deployment projects in underserved and unserved areas is to address regulatory imbalances and regulation-induced flaws that impair the development of effective competition. Accordingly, Sprint urges the Commission to implement the following reforms:

Reform of special access rates, terms and conditions: There would seem by now to be no debate that the special access market remains overwhelmingly dominated by incumbent local exchange carriers such as AT&T and Verizon, and that captive special access service subscribers (including enterprise customers, non-RBOC-affiliated interexchange and wireless carriers, and rural ISPs) are forced to purchase special access services from AT&T, Verizon, and other incumbent LECs at excessive rates and unreasonable terms and conditions. Onerous terms and conditions which lock in customers to the incumbent provider prevent those customers from switching to a competitive special access service provider, even where such competitive alternatives exist.

The monthly charges associated with special access services account for more than one-third of the cost of operating a cell site.[1] If incumbent LEC special access rates were adjusted to more reasonable levels – for example, to reflect productivity gains and a reasonable rate of return (rather than the up to triple-digit returns generated by existing rates) – cell site operating costs might well decrease to levels that would render some otherwise-marginal cell sites financially viable. Even more important, such rate adjustments would allow captive special access customers to invest tens or hundreds of millions of dollars of cash in their own networks (deploying new cell sites as well as improving existing sites) and services, rather than funneling such cash into the coffers of AT&T and Verizon. It would also allow rural broadband providers to obtain the special access links they need to connect to the Internet backbone at more reasonable, cost-based prices, and perhaps to reduce their retail Internet access rates to levels that encourage greater broadband subscribership.

Making universal service support available on a competitively neutral basis: Government subsidies such as federal high-cost universal service support can be a major factor in a carrier's decision to deploy an otherwise-marginal facility in an unserved or underserved area. However, a carrier's decision to invest in a marginal facility will also be informed by its sense that such support will be available on a competitively and technologically neutral basis. Providing unlimited support to a certain category of carriers (such as incumbent wireline LECs), while capping or eliminating the support to

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[1] *See* testimony of Paul Schieber, Sprint Nextel VP Access and Roaming, before the House Subcommittee on Communications, Technology and the Internet, on An Examination of Competition in the Wireless Industry, May 7, 2009, p. 3.

other categories of carriers (competitive LECs and wireless service providers) or, even worse, to individually targeted carriers as a condition to approval of transactions unrelated to the universal service reform proceeding,[2] exacerbates competitive imbalances and risks, and discourages competitive carriers from investing in unserved and underserved areas.

Sprint urges the Commission to address the inequities of limiting and phasing out existing federal high-cost support only to a certain class of carriers and to individual carriers. In addition, should the Commission decide to make broadband a supported service under the universal service program, it must, at a minimum, make such broadband support available to all carriers on a competitively and technologically neutral basis. As part of this decision, the Commission should explicitly state that carriers subject to universal service phase-out requirements are eligible to receive broadband support either directly (where support is provided to carriers) or indirectly (where support is provided to end users, who use such support to obtain broadband equipment and service from their

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[2] For example, in 2008, the Commission adopted orders approving transactions for Sprint Nextel/Clearwire and for Verizon Wireless/Alltel in which Sprint Nextel and Verizon Wireless/Alltel are required to phase-out their receipt of federal high-cost universal service support. *See Sprint Nextel Corporation and Clearwire Corporation, Applications for Consent to Transfer Control of Licenses, Leases, and Authorizations*, 23 FCC Rcd 17570, 17611-17612 (2008); *Application of Cellco Partnership d/b/a Verizon Wireless and Atlantis Holdings LLC for Consent to Transfer Control of Licenses, Authorizations , and Spectrum Manager and De Facto Transfer Leasing Arrangements*, 23 FCC Rcd 17444 (2008). No such USF phase-out condition was included in the order approving the AT&T/Centennial merger – a fact which aggravates competitive imbalances even further (*see Applications of AT&T Inc. and Centennial Communications Corp. for Consent to Transfer Control of Licenses, Authorizations, and Spectrum Leasing Arrangements, Memorandum Opinion and Order* released November 5, 2009 (FCC 09-97)).

preferred providers). This will help to prevent any confusion as to the scope of high-cost USF phase-out requirements, and ensure that all carriers have fair and reasonable access to universal service support which will promote broadband deployment in unserved and underserved areas.

To help ensure competitive and technological neutrality in the administration of the USF, any broadband universal service mechanism that the Commission may adopt should have a demand-side focus. Targeting broadband universal service support (*e.g.*, device subsidies, service charge subsidies, and training and public awareness efforts) at end users rather than at service providers is a more neutral and likely more effective means of stimulating demand and thus private investment.[3]

Reform the switched access and federal high-cost USF regimes: Inflated switched access rates and the current high-cost USF mechanism impede private broadband investment by enriching certain carriers (primarily incumbent wireline LECs) regardless of whether they invest private capital to expand or improve their broadband service offerings. These legacy regulatory mechanisms involve carrier-to-carrier wealth transfers for POTS and are not competitively neutral. Eliminating the carrier-to-carrier subsidies inherent in the current switched access and high-cost USF regimes would provide strong incentives to incumbent wireline carriers to focus on aggressively

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[3] *See* Sprint's January 7, 2010 comments on National Cable And Telecommunications Association's Petition For Rulemaking To Reduce Universal Service High-Cost Support Provided To Carriers In Areas Where There Is Extensive Unsubsidized Facilities-based Voice Competition (WC Docket No. 05-337, GN Docket No. 09-51 and RM-11584), pp. 15-22.

expanding their broadband service offerings to end users, rather than on maximizing their revenues from other carriers/competitors.

Respectfully submitted,

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